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Agent's Docket N.40306/SM//inf

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Milan,  
February 15, 2007

  
Albert Josif (Reg. No. 12,917)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: )  
Applicant: Michele RUBERTELLI )  
Ser. No.: 10/533,455 ) Group Art Unit: 2134  
Filed: October 21, 2005 ) Examiner: LIPMAN, JACOB

Assistant Commissioner for Patents

Mail Stop PETITION

Alexandria, VA 22313-1450 USA

**PETITION UNDER 37 CFR. 1.181 FOR REDATING  
DEFICIENTLY MAILED OFFICE ACTION**

Sir,

Your petitioner hereby requests that the shortened statutory period for response to the deficiently mailed Office action mailed December 8, 2006 be restarted and a new period for response set to run from the date the deficiency is corrected. This request is made in conformity with MPEP 710.06.

The envelope containing the above Office action reached the undersigned agent in Italy on February 13, 2007, i.e. about 64 days from the mailing date of said Office Action.

USSN 10/533,455  
Group Art Unit 2134  
Examiner: LIPMAN, JACOB  
February 15, 2007  
Page 2

The reason for this great delay is as follows.

Since many airmail marks are visible on the envelope, it is reasonable to assume that the envelope was handled over by the USPTO to the Post Office with great delay because of the security checking that currently occur in the USA.

A photocopy of said envelope is herewith attached as EXHIBIT 1. The date of receipt of the Office action at the offices of the undersigned agent is stamped on the envelope which contained the Office action. Please note that the Italian Post Office does not put on the envelope of an ordinary mail letter any receiving stamp or date, so that the only evidence that the envelope has been delivered with delay is the date of receipt of the Office action at the offices of the undersigned agent as stamped on the envelope which contained the Office action, and the agent's Declaration under 37 CFR 1.68 below. It is believed that in view of the Declaration under 37 CFR 1.68 at the end of this petition, and further in view of the enclosed photocopy of said envelope showing the stamped date of receipt of the Office action at the offices of the undersigned agent, the date of receipt of the Office action at the offices of the undersigned agent has been sufficiently established.

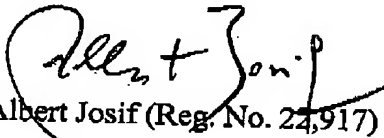
The current practice of the Office is to re-date the mailing date of an Office letter deficiently mailed to an Agent or Applicant residing overseas, by allocating to such letter the date on which the letter has been received by the Agent or Applicant. Copies of two Decisions of the Commissioner of Patents of this kind, which constitute clear precedent, are herewith attached as EXHIBITS 2 and 3 confirming that the deficient or surface mailing of an Office action to an agent residing overseas is considered to be correctable by restarting the previously set period for reply. In view of the foregoing, it is believed that this petition will be granted.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and further that

USSN 10/533,455  
Group Art Unit 2134  
Examiner: LIPMAN, JACOB  
February 15, 2007  
Page 3

these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Codes, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

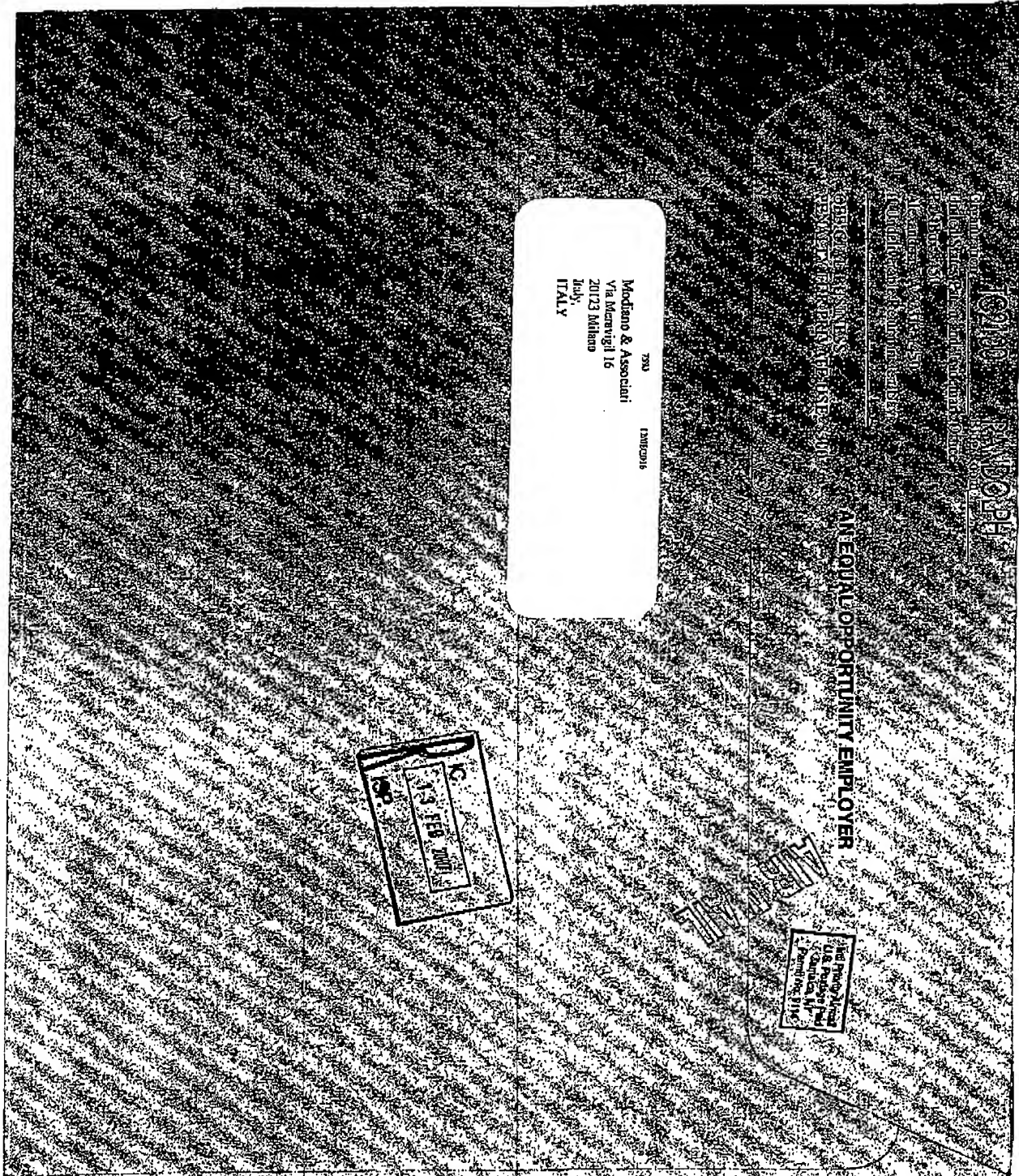
Respectfully submitted,

  
Albert Josif (Reg. No. 24,917)  
Agent for the Applicant

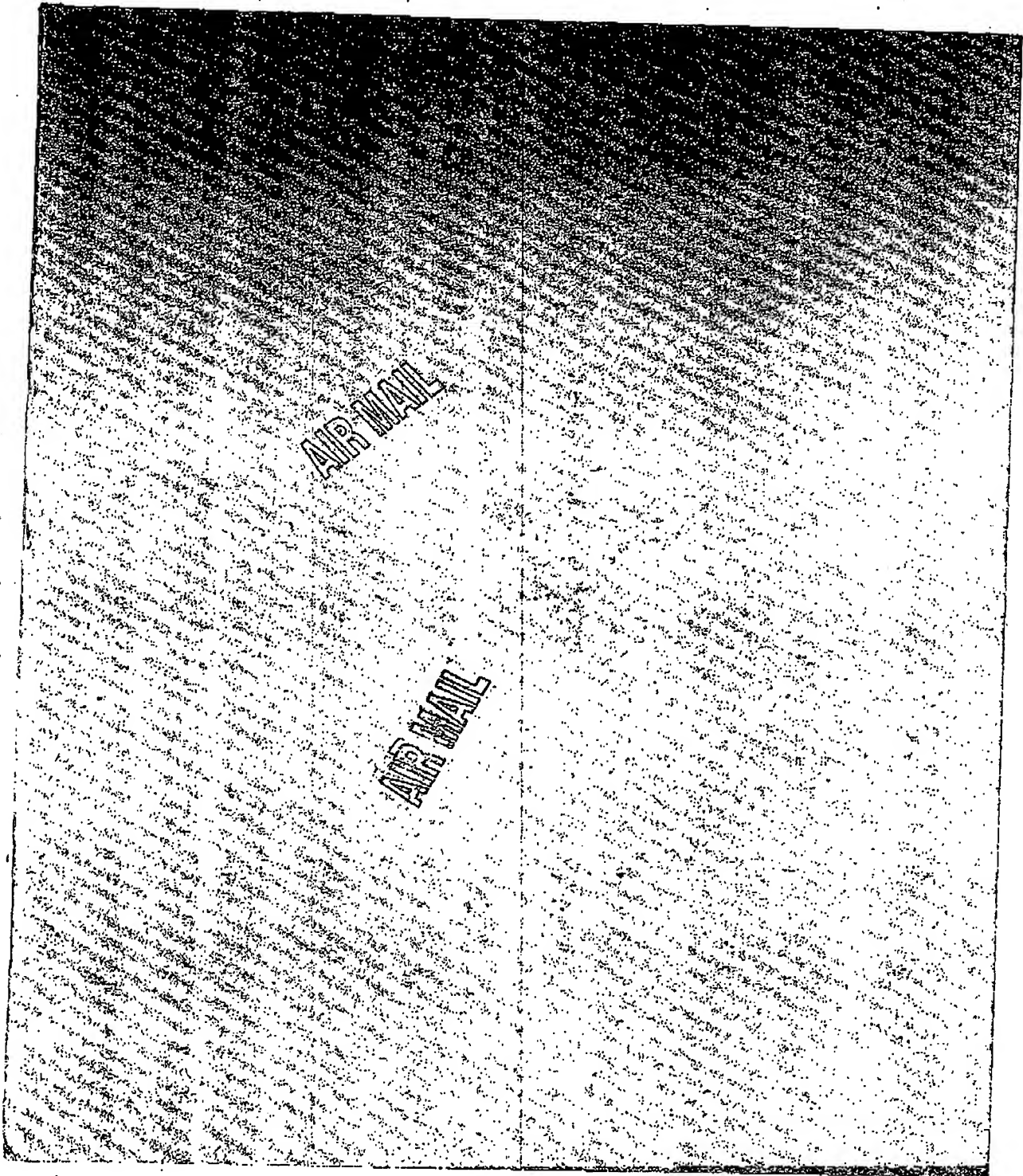
Date: February 15, 2007  
Address: Via Meravigli 16, 20123 MILAN-ITALY  
Telephone: (from USA) (011)(39)(02)85.90.77.77  
Telefax: (from USA)(011)(39)(02)863-860  
e-mail: info@modiano.com

Encl. -EXHIBITS 1, 2, and 3.

# EXHIBIT 1 (FRONT)



# EXHIBIT 1 (REAR)





## UNITED STATES PATENT AND TRADEMARK OFFICE

EXHIBIT 2

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Paper No. 6

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Via Meravigli, 16  
MILANO 20123 IT ITALY

MAR 19 2004

In re Application of:  
DEL NEGRI  
Serial No.: 10/190,708  
Filed: July 9, 2002  
Attorney Docket No.: n.36128-rfDECISION TO RESET  
PERIOD FOR REPLY

This is a decision on the petition filed under 37 CFR 1.181 for Redating Deficiently Mailed Office Action.

An ex parte Quayle Office action was mailed June 18, 2003, setting forth a two-month period of response.

Petitioner asserts the envelope containing the ex parte Quayle Office action reached the correspondence address on August 6, 2003, i.e. about 49 days from the mailing date of said action.

The Office will grant a petition to restart the previously set period for reply to an Office action to run from the date of receipt of the Office action at the correspondence address when the following criteria are met:

- (A) the petition is filed within 2 weeks of the date of receipt of the Office action at the correspondence address;
- (B) a substantial portion of the set reply period had elapsed on the date of receipt (e.g., at least 1 month of a 2- or 3-month reply period had elapsed); and
- (C) the petition includes (1) evidence showing the date of receipt of the Office action at the correspondence address (e.g., a copy of the Office action having the date of receipt of the Office action at the correspondence address stamped thereon, a copy of the envelope (which contained the Office action) having the date of receipt of the Office action at the correspondence address stamped thereon, etc.), and (2) a statement setting forth the date of receipt of the Office action at the correspondence address and explaining how the evidence being presented establishes the date of receipt of the Office action at the correspondence address.

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*Application Serial No. 10/190,708*  
*Decision on Petition*

2

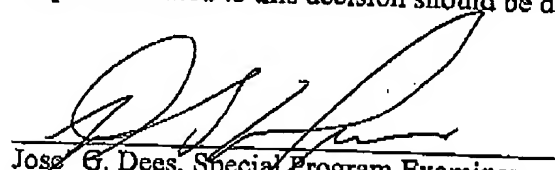
Petitioner has provided a copy of the envelope and the required statement setting forth the date of receipt of the ex parte Quayle Office action on August 6, 2003. Petitioner believes the delay in receiving the mail appears to be the surface mailing of the envelope because the envelope does not contain any visible signs of an airmail mark. Further, petitioner provides copies of prior Patent and Trademark Office decisions regarding late receipt of mail to this foreign address.

The petition is GRANTED.

A substantial portion of the two month reply period had elapsed on the date of receipt at the correspondence address. Accordingly, the period for response is set two months from the date received at the correspondence address, i.e., August 6, 2003.

The USPTO apologizes for the inconvenience caused by this error.

Inquiries related to this decision should be directed to Jose' G. Dees at (571) 272-1569.



Jose' G. Dees, Special Program Examiner  
Technology Center 2800  
Semiconductors, Electrical and Optical  
Systems and Components



UNITED STATES PATENT and TRADEMARK OFFICE  
 UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL  
 PROPERTY AND DIRECTOR OF THE UNITED STATES PATENT  
 AND TRADEMARK OFFICE  
 WASHINGTON, D.C. 20231  
 WWW.USPTO.GOV

EXHIBIT 3

Mailed: MAR 1 1999

WAK  
 Paper Number 9

In re application of  
 Riccardo Reverso  
 Serial No. 09/267,343  
 Filed: March 15, 1999  
 For: PROCESS AND APPARATUS FOR  
 THE CONTROLLED PYROLYSES  
 OF PLASTIC MATERIALS

DECISION ON  
 PETITION

This is a decision on the PETITION, filed on SEPTEMBER 26, 2000, requesting that the time for responding to the Office action dated May 23, 2000 ( mailed June 29, 2000 ) be reset since applicant did not receive the complete Office action dated May 23, 2000 because the references and the Notice of References ( PTO-892 ) associated with the Office action dated May 23, 2000 was not received until September 20, 2000.

#### DECISION

The instant response is accepted as a petition under 37 CFR 1.181 (no fee), and is considered pursuant to MPEP 710.06 which relates to resetting the period for response due to late receipt of a PTO action. A review of the application record and the petitioner's evidence indicates that the request has merit, and is sufficient to establish that the complete Office action of May 23, 2000 was not received by applicant until September 20, 2000. The evidence provided includes the envelope mailed from TC1700 having a postmark of June 29, 2000, absent no air mail mark and applicants receipt stamp of September 20, 2000. Applicant has noted that the Italian Post Office does not place a receiving stamp or date on surface mail.

Accordingly, applicant's request for restarting the period for reply to the Office action is granted, and the time for response has been reset to run from September 20, 2000, applicant's date of receipt of the references and the Notice of References ( PTO-892 ).

The Petition is GRANTED.

*Richard V. Fisher*

Richard V. Fisher, Director  
 Technology Center 1700  
 Chemical and Materials Engineering

Guido Modiano  
 Via Meravigli 16  
 20123 Milano  
 Italy